

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

SPRINGUARD TECHNOLOGY  
GROUP INC.,

Plaintiff,

V.

UNITED STATES PATENT AND  
TRADEMARK OFFICE; and JOHN J.  
DOLL, in his official capacity as Acting  
Director of the United States Patent and  
Trademark Office,

Defendants.

**ORAL ARGUMENT REQUESTED**

Case No. 08-cv-12119-RWZ

## PLAINTIFF'S CROSS-MOTION FOR SUMMARY JUDGMENT

Pursuant to Federal Rule of Civil Procedure 56 and Local Rule 56.1, Plaintiff SprinGuard Technology Group Inc. (“SprinGuard”) hereby moves for summary judgment on Count I of its complaint, seeking relief under the Administrative Procedure Act (“APA”), 5 U.S.C. §§ 701 *et seq.* The grounds for this motion are set forth in the accompanying memorandum of law and supporting exhibits. As set forth in that memorandum, summary judgment should be granted because the denial of SprinGuard’s petition to reinstate U.S. Patent No. 5,862,529 (“the ’529 patent”) by the Patent and Trademark Office (“PTO”) was arbitrary, capricious, an abuse of discretion, or otherwise contrary to law under 5 U.S.C. § 706(2).

Accordingly, SprinGuard respectfully requests that the Court grant its Cross-Motion for Summary Judgment and:

- (i) Issue a declaratory judgment that the PTO's denial of SprinGuard's petition to reinstate the '529 patent was arbitrary, capricious, an abuse of discretion, or otherwise contrary to law; and
- (ii) Enter an order requiring the PTO immediately to withdraw its denial of SprinGuard's petition, accept SprinGuard's payment of maintenance fees, and reinstate the '529 patent.

### **REQUEST FOR ORAL ARGUMENT**

Pursuant to Local Rule 7.1(d), SprinGuard respectfully requests that the Court grant a hearing on its Cross-Motion for Summary Judgment.

Date: June 12, 2009

Respectfully submitted,

/s/ Donald R. Steinberg

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*Attorneys for Plaintiff*

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**CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 7.1(a)(2)**

I, Donald R. Steinberg, hereby certify pursuant to Local Rule 7.1(a)(2) that counsel for SprinGuard have conferred with counsel for defendants and attempted in good faith to resolve or narrow the issues raised in this motion but have been unable to do so.

/s/ Donald R. Steinberg  
Donald R. Steinberg

**CERTIFICATE OF SERVICE**

I, Donald R. Steinberg, hereby certify that on this 12th day of June, 2009, this document, filed through the ECF system, will be sent electronically to the registered participants of record as identified on the Notice of Electronic Filing.

/s/ Donald R. Steinberg  
Donald R. Steinberg